

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

MARICEL FORTEZA,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Civil Action No. 4:23-cv-401-ALM-KPJ
	§	
PELICAN INVESTMENT HOLDINGS	§	
GROUP, LLC d/b/a AAP and AUTO	§	
SERVICE DEPARTMENT, <i>et al.</i>,	§	
	§	
Defendants.	§	
	§	

ORDER

On September 26, 2023, Defendant Sing for Service LLC d/b/a Mepco (“Mepco”) filed the Motion to Dismiss Plaintiff’s Amended Complaint Against Mepco and Brief in Support (the “Motion to Dismiss”) (Dkt. 27). *See* Dkt. 27. To date, Plaintiff Maricel Forteza (“Plaintiff”) has not filed a response.

The Motion to Dismiss (Dkt. 27) includes a certificate of service, which states:

On September 26, [sic] 2023, I filed the foregoing document with the clerk of court for the U.S. District Court, Northern [sic] District of Texas and electronically mailed this document to all parties by a manner authorized by Federal Rules [sic] of Civil Procedure 5(b).

Dkt. 27 at 21. Under Rule 5 of the Federal Rules of Civil Procedure, a “written motion” must be “served on every party.” FED. R. CIV. P. 5(a)(1)(D). Service may be accomplished by “sending it to a registered user by filing it with the court’s electronic-filing system or sending it by other electronic means that the person consented to in writing.” FED. R. CIV. P. 5(b)(2)(E). Under Local Rule CV-5, *pro se* litigants cannot register for the Electronic Filing System (“ECF”) without first obtaining “court permission.” *See* LOC. R. CV-5(a)(2)(B). The Court has not granted Plaintiff permission to register for ECF; nor does the Court have any record of Plaintiff consenting to

receive electronic service by other means, such as electronic mail (“e-mail”). Thus, the Court is not satisfied that it may rule on the Motion to Dismiss (Dkt. 27). *See* Loc. R. CV-7(e) (“A party opposing a motion has fourteen days . . . from the date the motion was *served* in which to file a response and any supporting documents, after which the court will consider the submitted motion for decision.” (emphasis added)).

IT IS THEREFORE ORDERED that Mepco has (7) days from the receipt of this Order to file a status report explaining how it served Plaintiff and, if by e-mail (as represented), whether Plaintiff has consented in writing to receive such service. If service was improperly executed, Mepco shall re-execute service on Plaintiff and, in the status report, indicate when and how such service was accomplished.

So ORDERED and SIGNED this 21st day of December, 2023.



KIMBERLY C. PRIEST JOHNSON
UNITED STATES MAGISTRATE JUDGE